

**PATENT COOPERATION TREATY**  
**PCT**  
**INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY**  
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 28 NOV 2005

Applicant's or agent's file reference TS 9512 PCT	FOR FURTHER ACTION	WIPO See FORM PCT/I/PEA/416
International application No. PCT/EP2004/053357	International filing date (day/month/year) 08.12.2004	Priority date (day/month/year) 10.12.2003
International Patent Classification (IPC) or national classification and IPC C08K3/00, C08K3/06, C08K3/08, C08K3/32		
Applicant SHELL INTERNATIONALE RES. MAATSCHAPPIJ B.V. et al.		
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <ul style="list-style-type: none"> <li>a. <input checked="" type="checkbox"/> <i>(sent to the applicant and to the International Bureau)</i> a total of 10 sheets, as follows: <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</li> <li><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</li> </ul> </li> <li>b. <input type="checkbox"/> <i>(sent to the International Bureau only)</i> a total of (indicate type and number of electronic carrier(s)), containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</li> </ul>		
<p>4. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Box No. I Basis of the opinion</li> <li><input type="checkbox"/> Box No. II Priority</li> <li><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</li> <li><input type="checkbox"/> Box No. IV Lack of unity of invention</li> <li><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</li> <li><input type="checkbox"/> Box No. VI Certain documents cited</li> <li><input checked="" type="checkbox"/> Box No. VII Certain defects in the international application</li> <li><input type="checkbox"/> Box No. VIII Certain observations on the international application</li> </ul>		
Date of submission of the demand 04.10.2005	Date of completion of this report 25.11.2005	
Name and mailing address of the international preliminary examining authority:   European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 eprmu d Fax: +49 89 2399 - 4465	Authorized Officer  Glomm, B Telephone No. +49 89 2399-7158	



# INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.  
PCT/EP2004/053357

## Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
  - This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
    - international search (under Rules 12.3 and 23.1(b))
    - publication of the international application (under Rule 12.4)
    - international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements\*** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

### Description, Pages

4, 6-15	as originally filed
1, 1a, 2, 2a, 3, 3a, 5, 5a	received on 27.06.2005 with letter of 23.06.2005

### Claims, Numbers

1-10	received on 27.06.2005 with letter of 23.06.2005
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- a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3.  The amendments have resulted in the cancellation of:
  - the description, pages
  - the claims, Nos.
  - the drawings, sheets/figs
  - the sequence listing (*specify*):
  - any table(s) related to sequence listing (*specify*):
4.  This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
  - the description, pages
  - the claims, Nos.
  - the drawings, sheets/figs
  - the sequence listing (*specify*):
  - any table(s) related to sequence listing (*specify*):

\* If item 4 applies, some or all of these sheets may be marked "superseded."

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**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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**1. Statement**

Novelty (N)	Yes:	Claims	
	No:	Claims	1-10
Inventive step (IS)	Yes:	Claims	
	No:	Claims	1-10
Industrial applicability (IA)	Yes:	Claims	1-10
	No:	Claims	

**2. Citations and explanations (Rule 70.7):**

**see separate sheet**

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**Box No. VII Certain defects in the international application**

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The following defects in the form or contents of the international application have been noted:

**see separate sheet**

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Cited documents:

- D1: US-A-3 960 585 (GAW ET AL) 1 June 1976 (1976-06-01)
- D2: US 2003/073761 A1 (BUTLER JAMES R ET AL) 17 April 2003 (2003-04-17)
- D3: GB-A-2 384 240 (SHELL INTERNATIONALE RESEARCH MAATSCHAPPIJ B.V) 23 July 2003 (2003-07-23)
- D4: DE 100 58 712 A1 (VEBA OIL REFINING & PETROCHEMICALS GMBH) 6 June 2002 (2002-06-06)
- D5: PATENT ABSTRACTS OF JAPAN vol. 2000, no. 20, 10 July 2001 (2001-07-10) & JP 2001 081325 A (NIPPON MITSUBISHI OIL CORP), 27 March 2001 (2001-03-27)
- D6: GB-A-1 528 384 (GULF OIL CA LTD) 11 October 1978 (1978-10-11)
- D7: EP-A-0 121 377 (EXXON RESEARCH AND ENGINEERING COMPANY) 10 October 1984 (1984-10-10)

**1. Novelty (Art. 33 (2) PCT)**

Each of cited documents D1 to D7 discloses a sulphur pellet comprising an H<sub>2</sub>S-suppressant comprising 60 to 100 wt.-% elemental sulphur as specified in present independent main claim 1 (for relevant passages, see the corresponding International Search Report).

The considerations of the applicant in the letter dated 23.06.2005 are not completely convincing in this respect. Especially, the attention of the applicant is drawn to the fact, that the parameters as concerns the elemental sulphur

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content as specified in the last two lines of present main claim appears to be implicitly disclosed by each of said documents D1 to D7. Implicit (or inherent) disclosure corresponds to the fact, that the claimed product is regarded as being anticipated actually by said prior art documents, even if the claimed parameter as specified in the last two lines of present main claim 1 is not expressly mentioned therein, i.e., the parameter is regarded as being actually present in the prior art embodiments, but simply not determined and/or mentioned expressly.

Consequently, each of said documents D1 to D7 anticipates the subject matter of present claim 1.

The same considerations also relate to the additional features of the following claims 2 to 10 when taking into account the full disclosure of each of said documents D1 to D7.

**Therefore the subject matter of present application is not new in view of the disclosure of each of said documents D1 to D7.**

**2. Inventive Step (Art. 33 (3) PCT)**

Providing an amended main claim which meets the requirements of Art. 33 (2) PCT, in the subsequent European regional phase, if any, the applicant should relate the distinguishing feature to a surprising (unexpected) technical effect or make credible or plausible that the distinguishing feature is not derivable from the prior art teaching (Art. 33 (3) PCT).